

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Roth	Team: Team # 6	CCRB Case #: 200613087	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/28/2006 11:15 AM	Location of Incident: § 87(2)(b)	Precinct: 48	18 Mo. SOL 3/28/2008	EO SOL 3/28/2008	
Date/Time CV Reported Mon, 10/02/2006 3:35 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 10/02/2006 3:35 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Christophe Skulsky	03845	910568	048 DET
2. Officers			
3. SGT Flavio Rodriguez	92440	924407	028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Bryan Baldwin	00000	896983	I.A.B.
2. DT3 Anthony Moore	00838	912138	048 DET
3. SGT David Echevarria	02139	902754	045 DET
4. DT3 Brian Stoll	05084	910947	048 DET
5. POM Miguel Alvarez	09360	937974	048 PCT
6. POM Franklyn Sepulveda	23167	937518	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Flavio Rodriguez	Force: Sgt. Flavio Rodriguez used physical force against § 87(2)(b)	
B.DT3 Christophe Skulsky	Force: Det. Christopher Skulsky struck § 87(2)(b) with an asp.	
C.DT3 Christophe Skulsky	Force: Det. Christopher Skulsky used physical force against § 87(2)(b)	
D. Officers	Force: Officers used physical force against § 87(2)(b)	
E. Officers	Abuse: Officers threatened to arrest § 87(2)(b)	
F. Officers	Discourtesy: Officers spoke obscenely to § 87(2)(b)	
G. Officers	Abuse: Officers entered and searched § 87(2)(b)	

Synopsis

§ 87(2)(b) filed her complaint at the CCRB on October 2, 2006. She stated that on September 28, 2006, she and her husband, § 87(2)(b) were inside of a restaurant that they own at § 87(2)(b) in the Bronx. Two officers entered the restaurant and asked to speak to § 87(2)(b) who was in the bathroom at the time. These two officers, identified as Det. Christopher Skulsky and Sgt. Flavio Rodriguez, who was a police officer at the time of the incident, of the 48th Precinct Detective Squad, were dressed in business attire and allegedly did not have their shields displayed and failed to identify themselves. When § 87(2)(b) exited the bathroom, the officers asked him if he was § 87(2)(b) and he asked who they were. § 87(2)(b) then became scared and ran out of the restaurant at which time § 87(2)(b) got on the phone to call 911 to report what was going on. The officers then pursued § 87(2)(b) who ran around a corner and onto § 87(2)(b). The officers caught up to him near § 87(2)(b) at which time Sgt. Rodriguez punched him several times (**Allegation A**) and Det. Skulsky struck § 87(2)(b) several times in the ribs with a asp and used additional force against him (**Allegations B & C**). Additional officers then slammed § 87(2)(b) to the ground and jumped on top of him (**Allegations D**). No officers struck § 87(2)(b) while he was on the ground, but he was then picked up and dragged around before being placed in an RMP. When § 87(2)(b) arrived at the location, officers whom she could not identify told her to back up or she would be arrested (**Allegation E**). § 87(2)(b) was then brought to the 48th Precinct where he complained of shortness of breath and pain. He was later brought to § 87(2)(b) and diagnosed with two broken ribs.

Following the incident, officers returned to the restaurant. At that time, an officer instructed § 87(2)(b) a patron of the restaurant, to “shut the fuck up and sit down” (**Allegation F**). Officers then conducted a search for a gun that they believed to be inside the restaurant (**Allegation G**).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) filed her initial complaint via telephone at the CCRB on October 2, 2006 (encl. 6). She filed a complaint at IAB on that same date (encl. 5). On October 11, 2006 she provided a brief phone statement (encl. 7), and she was interviewed at the CCRB on October 12, 2006 (encl. 8). § 87(2)(b) is a § 87(2)(b) black female. She is 5’7, 195 pounds with brown hair and brown eyes. § 87(2)(b)

§ 87(2)(b) § 87(2)(g)

Previous to this incident, § 87(2)(b) and § 87(2)(b) had informed their landlord § 87(2)(b) who is a former police officer, that they would be leaving the restaurant that they owned. § 87(2)(b) asked if he could buy some of their equipment that they were leaving behind and the § 87(2)(b) responded that they would not be leaving anything and he could not buy it. Two days before the incident, two men in plainclothes entered the restaurant in the same fashion looking for § 87(2)(b) but he was not there. § 87(2)(b) believed that § 87(2)(b) had sent these men to “rough up” § 87(2)(b). Earlier in the

morning on September 28, 2006, § 87(2)(b) had passed by the restaurant and told § 87(2)(b) “you’re fucked.”

§ 87(2)(b) stated that on September 28, 2006 at approximately 11:00 a.m., she was inside of § 87(2)(b) which was open for business at the time and had several customers, when two men in civilian clothes, later identified as detectives entered and asked to speak with her husband § 87(2)(b). One of the men closed the front door behind them and another was looking out of the window and § 87(2)(b) thought they might be there to rob the restaurant. § 87(2)(b) came out of the bathroom, walked around the counter and asked the men for identification. The detectives would not provide it and § 87(2)(b) became scared and ran out the side door of the restaurant. § 87(2)(b) picked up the phone and began calling the police and one of the detectives told her to get off the phone. The detectives chased § 87(2)(b) as he ran out of the door and followed him down the block. § 87(2)(b) remained in the restaurant for several more minutes when people from the neighborhood entered and stated “hurry up, they are beating § 87(2)(b) down.” § 87(2)(b) stated that she could hear sirens outside at this time. § 87(2)(b) told one of the witnesses identified as § 87(2)(b) to lock the door of the restaurant and she ran towards where § 87(2)(b) was. As she turned the corner, she witnessed an officer pick § 87(2)(b) up and slam him to the ground. § 87(2)(b) was handcuffed at this time. After he was thrown to the ground, he was brought up to a kneeling position. Approximately ten additional officers were hitting him as well at this time. Other officers were trying to check his pockets. One of the detectives from the restaurant punched him in the face and side. § 87(2)(b) then witnessed the officers dragging § 87(2)(b) with his legs behind him into a marked police car. § 87(2)(b) stated that this beating lasted a total of 10-15 minutes. Officers stated to § 87(2)(b) that she could not be there and should be arrested, and two officers attempted to obstruct her view of the officers beating up § 87(2)(b). § 87(2)(b) was unable to identify or describe any of the officers who responded to the incident or participated in the beating of § 87(2)(b).

§ 87(2)(b) returned to the restaurant and began making phone calls to her attorney and § 87(2)(b)'s father. After approximately 5 minutes, several officers, including a 6'1 white lieutenant in a white shirt, returned and told § 87(2)(b) to leave because they needed to search the restaurant. The officers did not locate any contraband but left with a meat cleaver. § 87(2)(b) went outside and watched through the window to make sure that the officers were not doing anything wrong. § 87(2)(b) then went to try and find her husband. She stated that he was at the precinct at that time and he was denied medical treatment. § 87(2)(b) was then informed that § 87(2)(b) had been brought to § 87(2)(b). She learned later that the detectives had told the nurse that § 87(2)(b) had sustained the injuries as a result of a fall. § 87(2)(b) was given drugs and was returned to the precinct. He later told § 87(2)(b) that he could not breathe and that he passed out at the precinct. He was then brought to another hospital and by the time he saw a judge on the afternoon of § 87(2)(b), the judge ordered that an ambulance be called because he was gurgling and could not speak. § 87(2)(b) filed a complaint about § 87(2)(b) on September 28, 2006 with PO Sullivan.

§ 87(2)(b)

On October 12, 2006 the CCRB interviewed § 87(2)(b) (encl. 9). § 87(2)(b) is a § 87(2)(b) white male. He is 6'0 tall, 190 pounds with brown hair and brown eyes. § 87(2)(b)

§ 87(2)(b) was treated at several hospitals following the incident. On the first Ambulance Call Report, he stated that he was diabetic and felt weak. On the Ambulance Call Report from the day following the incident, § 87(2)(b) stated that he “fell yesterday.” He complained of various pain to his ribs in the days following the incident, however never noted to medical personnel at any time that he had been beaten up or assaulted by the police. Several pictures were taken of § 87(2)(b) following the incident which reveals cuts and bruises to his face and body. Specifically, he sustained abrasion to his right cheek, a bruise to his left cheek, abrasions and bruising to both knees and lower legs, and a bruise under his right armpit. His arrest photo is consistent with these injuries as well.

§ 87(2)(b) stated that on September 28, 2006 at approximately 11:00 a.m., he encountered his landlord, § 87(2)(b) § 87(2)(b) outside his restaurant and § 87(2)(b) § 87(2)(b) threatened him at this time. § 87(2)(b) § 87(2)(b)'s restaurant is located on the corner of § 87(2)(b) and § 87(2)(b). This was the only time that § 87(2)(b) encountered § 87(2)(b) § 87(2)(b) on this date and it was the only time that either man had threatened one another. Approximately 15 minutes later as he exited the bathroom of his restaurant, two

unidentified males, later determined to be detectives, entered the restaurant and asked for § 87(2)(b). § 87(2)(b) asked who they were and they did not answer him. At this time he thought that the men were there to rob him. PO1, a 25-30-year-old Hispanic male, 5'9, medium build, who was later identified as Sgt. Flavio Rodriguez, had his hand on his firearm but it was still in its holster. PO2 was a tall white male with dark hair and big eyebrows, identified as Det. Christopher Skulsky. Sgt. Rodriguez approached § 87(2)(b) and stated that they were the police. § 87(2)(b) became scared and ran out the side door of the restaurant. § 87(2)(b) called 911 as § 87(2)(b) was running out of the restaurant. The detectives pursued him but did not issue him any directives. § 87(2)(b) ran approximately half a block down § 87(2)(b) towards § 87(2)(b) when he saw a patrol car. When he saw the car, he stopped running and put his hands up against the wall. He stopped directly in front of a DOT building that he believed was monitored by video cameras.

Once he had stopped, Sgt. Rodriguez approached § 87(2)(b) and began punching him with his left hand on the left and right sides of his face and asking "where is it, where is it?" Det. Skulsky came up behind § 87(2)(b) and struck him four times with a black metal asp in the ribs, just below his right armpit. Additional officers responded, some of which were in uniform, and slammed § 87(2)(b) to the ground chest first and jumped on top of him. § 87(2)(b) did not recall any officers striking him while he was on the ground. § 87(2)(b) could not identify any of the additional officers but stated that there were approximately ten of them. The officers then picked him up, dragged him around for a few minutes, and put him inside a marked police car. § 87(2)(b) was compliant with the officers at this time and stated that he could not fight back because he was so hurt. He was brought to the 48th Precinct by two uniformed white male officers. § 87(2)(b) was brought up to the cells on the second floor where he laid on the floor and stated that he could not catch a full breath because of his broken ribs. § 87(2)(b) stated that he did not feel well, however he never explicitly requested medical attention. § 87(2)(b) was brought to the hospital after approximately two hours in the precinct. At the hospital the doctors were unable to get a good x-ray and § 87(2)(b) was given medication and released. § 87(2)(b) was then brought back to the 48th Precinct, where he saw § 87(2)(b) § 87(2)(b) the individual who had filed the complaint against him, coming out of the commanders office. § 87(2)(b) was brought to Central Booking but it was full and he was then brought to the 49th Precinct. In the morning he had trouble breathing at which time the officers took him to § 87(2)(b) where he was diagnosed with two broken ribs, the 7th and 8th, and was given morphine for the pain. § 87(2)(b) was then brought back to the 49th Precinct and then returned to Central Booking. He was released on his own recognizance § 87(2)(b) and went to § 87(2)(b) and § 87(2)(b) upon being released. Internal affairs came to § 87(2)(b) to interview § 87(2)(b) § 87(2)(b) stated that he was charged with menacing with a handgun, however no gun was recovered and he does not own a gun.

Results of Investigation

Witness Statements

§ 87(2)(b)

On March 23, 2007 the CCRB interviewed § 87(2)(b) § 87(2)(b) § 87(2)(b) (encl. 10). § 87(2)(b) was a witness to the incident, who was identified by § 87(2)(b) at the time of her statement.

§ 87(2)(b) stated that on September 28, 2006 at approximately 11:00 a.m., she was sitting inside the diner owned by § 87(2)(b) and § 87(2)(b) and had been there for approximately 20 minutes. She stated that the landlord's son walked by and told § 87(2)(b) "we are going to get you the fuck out of here." § 87(2)(b) got upset and went outside and told the landlord's son, "we are not bothering you, leave us alone." § 87(2)(b) noted that § 87(2)(b) did not have any weapons on him at that time. Approximately fifteen minutes later, PO1, a chunky Hispanic or white male, later identified as Det. Skulsky and PO2 a slim black or Hispanic male, identified as Sgt. Rodriguez entered the diner. Neither of the men had their shields nor identification displayed and looked to § 87(2)(b) like "hit men." Det. Skulsky stated that he was looking for § 87(2)(b) referring to § 87(2)(b) § 87(2)(b) asked who the men were and they responded that they were detectives. § 87(2)(b) asked to see identification and Det. Skulsky responded, "Identification is irrelevant." § 87(2)(b) exited the bathroom and went around the counter with a bottle of water. The detectives asked § 87(2)(b) if he was § 87(2)(b) and when he replied that he was not, they asked him to produce identification. § 87(2)(b) reached over the counter to look

through some papers and Sgt. Rodriguez went around the counter and Det. Skulsky went towards the cash register and stated “he’s reaching.” Sgt. Rodriguez pulled out a telescoping asp and swung it at § 87(2)(b) s torso but missed him. At no point did § 87(2)(b) swing back at the officers or attempt to fight with them inside the restaurant. § 87(2)(b) then ran out the side door of the diner and the two detectives followed him.

Once § 87(2)(b) ran outside, § 87(2)(b) got on the telephone and called the police. When § 87(2)(b) got off the phone, a female, possibly named § 87(2)(b) ran into the restaurant and told § 87(2)(b) that § 87(2)(b) was getting beat up around the corner. § 87(2)(b) left the restaurant to see what was going on and told § 87(2)(b) to remain inside the restaurant and make sure everything was all right. An individual named § 87(2)(b) was in the restaurant as well but got scared and sat on the stoop. § 87(2)(b) stated that approximately five to ten minutes later, the restaurant was “swarming” with police officers. The first four officers to enter were an officer in a white shirt and four uniformed officers. She stated that there may have been two black and one Hispanic officer and the fourth had light skin. These officers asked § 87(2)(b) who she was. She explained that the owners had asked her to watch the restaurant and she stated that they could not search without a search warrant. PO3, a male officer in uniform whom § 87(2)(b) was unable to describe further, told § 87(2)(b) to “shut the fuck up and sit down.” She complied, at which time the officers proceeded to thoroughly search the restaurant by digging through food and looking underneath counters. The officer recovered a small axe that is used to cut meat. § 87(2)(b) went to the doorway to get fresh air when she observed Det. Skulsky and Sgt. Rodriguez come back around the corner and observed their badges which they had not been wearing when they initially entered. § 87(2)(b) returned to the restaurant at this time as well, and she stated that § 87(2)(b) had been arrested and had been taken to the hospital because the police had beaten him up. She stated that this alleged beating happened on § 87(2)(b) around the corner of the restaurant. As the incident went on, additional officers entered the restaurant and she estimated that there may have been as many as 60 officers at the location, inside and outside the restaurant.

§ 87(2)(b) stated that the landlord whose son began the incident has begun harassing her. She stated that the landlord is a former member of the § 87(2)(b) Precinct and § 87(2)(b) does not want to get involved with him.

Attempts to ID and Locate Additional witnesses

At the time of their complaint, § 87(2)(b) provided the CCRB with the names of three additional witnesses, identified as § 87(2)(b), § 87(2)(b), and § 87(2)(b). Calls were placed to the numbers provided for § 87(2)(b) and § 87(2)(b) which determined that the contact information was not viable. § 87(2)(b) was able to sign a verification statement during a canvass of the area, however he was unable to provide a statement at that time. The CCRB placed several calls to § 87(2)(b) in an attempt to obtain a statement from him, and he failed to cooperate with these attempts.

At the time of his complaint, § 87(2)(b) stated that the DOT facility near where the incident occurred has surveillance cameras that may have captured his arrest. The CCRB obtained a copy of this video, however there was no footage of the incident. The CCRB later conducted a canvass of the DOT facility and spoke with the administrator who stated that any additional camera angles which may have captured the incident would have been deleted shortly following the incident.

Officer Statements

Since the time of the incident, PO Flavio Rodriguez has been promoted to the rank of sergeant. For the purposes of this investigation he will be referred to as Sgt. Rodriguez.

Sgt. Flavio Rodriguez: UF61 Complaint Report

On September 28, 2006 at 10:50 a.m., Sgt. Rodriguez prepared a UF61 for menacing, which was filed by § 87(2)(b) § 87(2)(b) who was § 87(2)(b) s landlord. The narrative states that § 87(2)(b) did display a firearm and stated “why the fuck are you harassing me and my wife,” as § 87(2)(b) § 87(2)(b) was walking his dog. Perpetrator and complainant are known to each other (encl. 11).

Sgt. Flavio Rodriguez: CCRB Statement

On May 10, 2007 the CCRB interviewed Sgt. Flavio Rodriguez of the 28th Precinct but formerly of the 48th Precinct Detective Squad (encl. 12). Sgt. Rodriguez is a § 87(2)(b)-old Hispanic male. He is 5'6, 160 pounds with no hair and brown eyes. On September 28, 2006, Sgt. Rodriguez worked 0800 hours until 1600 hours as an Investigator with Det. Skulsky. Both officers were dressed in suits and were assigned to an unmarked RMP. Sgt. Rodriguez had no memo book entries regarding this incident.

On September 28, 2006 at approximately 11:15 a.m., Sgt. Rodriguez was sitting in his office and received a call from an individual who stated he was a former NYPD detective, later identified as § 87(2)(b). He stated that he was threatened by one of his tenants, identified as § 87(2)(b). Sgt. Rodriguez and Det. Skulsky went to the location and spoke with § 87(2)(b) who stated that § 87(2)(b) had not been paying the rent, and on that morning, § 87(2)(b) had threatened him with a gun. He provided additional details that Sgt. Rodriguez was unable to recall. Sgt. Rodriguez and Det. Skulsky proceeded to walk next door into the diner run by § 87(2)(b). There were 2-3 patrons in the restaurant including one female working there. Upon entering, both officers identified themselves as police officers, displayed their shields, and proceeded to ask the female behind the counter, identified as § 87(2)(b) if she knew where § 87(2)(b) was. She gave the officers a "hard time," at which point an individual walked in the door who perfectly matched the description of § 87(2)(b) provided by § 87(2)(b). Sgt. Rodriguez asked the individual his name and he responded by stating that he did not need to speak with the officers. Sgt. Rodriguez then identified himself to § 87(2)(b) showed him his shield, and explained that he wanted to speak to him about a complaint that was filed. § 87(2)(b) proceeded to walk behind the counter and reiterated that he did not need to speak with the officers. At that time, § 87(2)(b) ducked behind the counter and appeared to reach for something. Sgt. Rodriguez drew his firearm at that time and instructed § 87(2)(b) not to move because he suspected he was reaching for a gun. Sgt. Rodriguez could not recall if he specifically pointed it at § 87(2)(b). He was unaware if Det. Skulsky drew his weapon. Sgt. Rodriguez began to slowly proceed behind the counter to see what § 87(2)(b) was holding, at which time § 87(2)(b) took off and ran out the back door of the restaurant.

Sgt. Rodriguez followed § 87(2)(b) out the door and put the call over the radio as a foot pursuit, providing a description of § 87(2)(b). Det. Skulsky went after him as well. The foot pursuit went on for approximately two blocks and Sgt. Rodriguez did not recall § 87(2)(b) falling at any point. When Sgt. Rodriguez caught up with § 87(2)(b) he grabbed him by his hands and shirt at which point § 87(2)(b) began to flail his arms and pushed Sgt. Rodriguez. Both fell to the ground at that time, but Sgt. Rodriguez could not articulate how they fell or how § 87(2)(b) landed. Sgt. Rodriguez then attempted to place him under arrest and noted that he used force to get § 87(2)(b)'s arms out from under him and prevent him from striking him. Specifically, he grabbed § 87(2)(b)'s arms and punched him in his arms to prevent from being hit. Sgt. Rodriguez did not recall having punched § 87(2)(b) in the face and stated that he used "necessary force" to get him under control. At the point when Det. Skulsky arrived, Sgt. Rodriguez had been on the ground with § 87(2)(b) for 15-30 seconds. Det. Skulsky assisted in subduing § 87(2)(b) but Sgt. Rodriguez could not articulate how. Sgt. Rodriguez stated that he did not use a asp because he is not trained and does not carry a asp or asp, however he was unaware of whether Det. Skulsky used one. Sgt. Rodriguez described the situation as "wrestling," wherein § 87(2)(b) would punch him, and then roll over and tuck his arms to prevent being handcuffed. Once Det. Skulsky arrived, the struggled went on for another 15 seconds before they were finally able to handcuff him. § 87(2)(b) was on the floor handcuffed at the time when additional officers responded, however Sgt. Rodriguez could not recall what his positioning was on the ground. None of the responding officers slammed § 87(2)(b) on the ground or jumped on top of him. Sgt. Rodriguez could not recall if he had any physical interaction with the responding officers. He stated that no officer had any physical interaction with § 87(2)(b) after he was placed in handcuffs. § 87(2)(b) remained on the ground for approximately one minute before he was placed inside an RMP. § 87(2)(b) was able to stand up under his own power and Sgt. Rodriguez did not recall any visible injuries to § 87(2)(b)'s face or body, nor did he recall § 87(2)(b) being struck in the ribs or chest. § 87(2)(b) complained that he was in pain and was taken to § 87(2)(b). § 87(2)(b) successfully punched Sgt. Rodriguez in his neck, face, and chest and Sgt. Rodriguez sustained scrapes on his hands and knees. Sgt. Rodriguez did not believe any reports were prepared in regards to his injuries.

Once § 87(2)(b) had been arrested, Sgt. Rodriguez returned to the restaurant, spoke to § 87(2)(b) and went to look if there were any firearms in plain view in the restaurant. He did not have any interaction with any officers there and noted that no firearms were located. He added that a full search was

not conducted because they did not have a search warrant. The supervising officers were Sgt. Echeverria and Lt. Baldwin. He added that several additional officers responded but he was unable to identify any of them. Sgt. Rodriguez then left the location and went to see § 87(2)(b) at the hospital. Sgt. Rodriguez did not recall having seen any injuries to § 87(2)(b) and was not aware of what he was treated for. Sgt. Rodriguez was presented photos of § 87(2)(b)'s body and noted that the scrapes to his knees and legs were consistent with the struggle that took place on the ground. Sgt. Rodriguez did not know at what point § 87(2)(b) may have sustained broken ribs. Sgt. Rodriguez was unaware of any requests for medical treatment made by § 87(2)(b) once he was returned to the precinct. § 87(2)(b) was charged with menacing and resisting arrest.

Det. Christopher Skulsky: Complaint Follow-Up Informational

Det. Skulsky prepared a complaint follow-up informational in regards to the complaint filed by § 87(2)(b) against § 87(2)(b) (encl. 13). The narrative states that at approximately 10:55 a.m. on September 28, 2006, Sgt. Rodriguez received a telephone call from § 87(2)(b) who explained that he was a retired MOS and that he had been menaced by a male who was next door to his location. He did not call 911 because he was afraid that patrol would not handle the job properly. At approximately 11:05 a.m., Det. Skulsky and Sgt. Rodriguez were present at § 87(2)(b) and spoke to § 87(2)(b). He stated that he has an ongoing dispute with his neighbor, identified as § 87(2)(b) who is being evicted on Friday. Earlier that morning, § 87(2)(b) had come out of the diner while § 87(2)(b) was walking his dog. He took off his apron and pulled a silver revolver from his pocket and told § 87(2)(b) to stop harassing him. § 87(2)(b) further explained that he does not carry a firearm and walked back to his store to call the detectives.

Following the incident, Det. Skulsky prepared a second complaint follow-up informational in regards to the complaint filed by § 87(2)(b) against § 87(2)(b). The narrative states that at approximately 11:05 a.m. on September 28, 2006, Det. Skulsky and Sgt. Rodriguez were present at the soul food restaurant located at § 87(2)(b). Upon looking inside, Det. Skulsky saw a black female behind the counter and two people seated at a table next to the counter. Det. Skulsky and Sgt. Rodriguez entered and identified themselves and asked to speak to § 87(2)(b). A white male came out from the right side behind the diner door and looked at Det. Skulsky up and down. Det. Skulsky inquired to him if he was § 87(2)(b) and he replied "No" and went behind the counter of the restaurant. Det. Skulsky asked again if he was § 87(2)(b) and he replied "Who the fuck are you anyway?" Det. Skulsky began to again identify himself as § 87(2)(b) lunged to his right under the counter, Det. Skulsky jumped over the counter and was pushed by § 87(2)(b) as he ran out of the diner through the side door leading to § 87(2)(b). A foot pursuit ensued eastbound and then southbound onto § 87(2)(b). § 87(2)(b) was caught up to at § 87(2)(b) and § 87(2)(b) where he turned around and began fighting with Det. Skulsky and Sgt. Rodriguez. § 87(2)(b) was apprehended with a minimum use of force. Search incident to lawful arrest recovered a wooden pipe with the smell of marijuana and § 87(2)(b) stated "It's just pot." He was transported to the 48th Precinct by Patrol Units and ESU conducted an evidence search with negative results. A twelve inch wooden handle tomahawk was found by PO Stoll inside the restaurant behind the counter. The tomahawk was shown to § 87(2)(b) and he was emphatic that § 87(2)(b) displayed a firearm.

At approximately 11:45 a.m. upon arrival at the 48th Precinct, Det. Skulsky spoke with § 87(2)(b) who told him that he was diabetic. Det. Skulsky requested EMS to respond to the 48th Precinct for § 87(2)(b) who had scrapes on his knees and face. He was transported to § 87(2)(b) via EMS and did utter to Det. Skulsky inside of the ambulance en route, that he was scared and saw only guns and that's why he ran and that he only had pot and did not have a gun at the restaurant.

Det. Christopher Skulsky: Arrest Paperwork

At 11:45 a.m. on September 28, 2006, Det. Skulsky arrested § 87(2)(b) for § 87(2)(b). The narrative states that at the time and place of occurrence, § 87(2)(b) stated that § 87(2)(b) menaced him with a firearm. Upon investigation by detectives, § 87(2)(b) was evasive and did lunge behind a counter. § 87(2)(b) then fled the location and was apprehended after a foot pursuit. § 87(2)(b) then refused to be handcuffed by flailing his arms and was not compliant with police instructions. A marijuana pipe with

residue was recovered from § 87(2)(b) incident to arrest. A voucher was prepared for a wooden pipe containing marijuana, and residue with a positive field test (encl. 14).

Det. Christopher Skulsky: CCRB Statement

On May 23, 2007 the CCRB interviewed Det. Christopher Skulsky of the 48th Precinct Detective Squad (encl. 15). Det. Skulsky is a § 87(2)(b)-old white male. He is 5'10", 200 pounds with brown hair and brown eyes. On September 28, 2006, Det. Skulsky worked from 0800 hours until 1600 hours as an investigator with Sgt. Rodriguez. Det. Skulsky had no memo book entries regarding this incident.

Det. Skulsky stated that on September 28, 2006 at approximately 11:15 a.m. he was sitting in the office with Sgt. Rodriguez who had received a call from a retired MOS who stated that he had a problem with the guy next door. Det. Skulsky and Sgt. Rodriguez responded to § 87(2)(b) where the complainant, identified as § 87(2)(b) § 87(2)(b) works. § 87(2)(b) § 87(2)(b) explained that his tenant next door who was getting evicted, identified as § 87(2)(b) had been giving him problems. That morning, § 87(2)(b) § 87(2)(b) threatened § 87(2)(b) § 87(2)(b) with a silver revolver and told him to stop bothering him. § 87(2)(b) § 87(2)(b) explained that he wanted § 87(2)(b) locked up and he wanted to press charges. He provided the officers with a description of § 87(2)(b).

Det. Skulsky and Sgt. Rodriguez proceeded next door to § 87(2)(b)'s restaurant and observed a female whom § 87(2)(b) § 87(2)(b) identified as § 87(2)(b)'s wife, § 87(2)(b). The officers entered the restaurant, identified themselves as police officers, and asked to speak to § 87(2)(b). They identified themselves both verbally and by their badges, firearms and radios which were on their belts. Det. Skulsky noted that it was a nice day, the officers were not wearing coats, and their belts and badges were clearly displayed. § 87(2)(b) became belligerent and wanted to know who they were, despite the fact that Det. Skulsky identified himself clearly. At that time, § 87(2)(b) walked out of the bathroom of the restaurant. Det. Skulsky asked if he was § 87(2)(b) and he responded that he was not. § 87(2)(b) § 87(2)(b) proceeded behind the counter and stated "who are you, what the fuck do you want." Det. Skulsky identified himself once again and asked if § 87(2)(b) had had a problem with his landlord next door. § 87(2)(b) responded that it was bullshit and proceeded to lunge behind the counter. Det. Skulsky could not see what he was reaching for and was concerned that he was reaching for a weapon. Det. Skulsky jumped over the counter and attempted to grab § 87(2)(b). Det. Skulsky managed to straddle the counter and attempted to grab § 87(2)(b) who pushed off of him, hit the wall, and ran out of a side door of the restaurant. Det. Skulsky observed that § 87(2)(b) got on the phone at that time. He did not know who she was calling but later learned that she called 911.

Det. Skulsky then ran out the door of the restaurant after § 87(2)(b). He stated that it appeared that § 87(2)(b) was favoring his right side and appeared to be doing something in his pocket. § 87(2)(b) began to run down § 87(2)(b) and after approximately two blocks, Sgt. Rodriguez caught up to § 87(2)(b) and grabbed his upper body to bring him down to the ground. He had not witnessed § 87(2)(b) trip or fall to the ground at any time prior to being grabbed by Sgt. Rodriguez. Both § 87(2)(b) and Sgt. Rodriguez went down to the ground and began scuffling on the floor. Det. Skulsky was unable to articulate how they fell to the ground and if a fight engaged while they were on the ground. By the time Det. Skulsky caught up to them, the two were standing up and were engaged in a "hockey fight." Specifically Sgt. Rodriguez was attempting to grab his arms and § 87(2)(b) would not let him. Det. Skulsky was yelling at § 87(2)(b) to get on the ground and he was not compliant. At that time he drew his asp and extended it and told § 87(2)(b) to get on the ground again. § 87(2)(b) § 87(2)(b) did not comply and Det. Skulsky struck him in the left leg between his knee and ankle. § 87(2)(b) § 87(2)(b) made a sound but did not become compliant and did not go to the ground. Det. Skulsky hit him an additional time in what he believed was the same area, at which time § 87(2)(b) went to the ground. At no point did Det. Skulsky hit him in his torso or in his rib area. Sgt. Rodriguez landed on top of him and Det. Skulsky attempted to assist putting him into handcuffs. At that time a marked van arrived and several uniformed police officers as well as several plainclothes officers responded and engaged § 87(2)(b) § 87(2)(b). Det. Skulsky then observed the officers get him into handcuffs, at which time he felt § 87(2)(b) § 87(2)(b)'s pocket and asked him what he was feeling. § 87(2)(b) § 87(2)(b) responded "it's just pot," and Det. Skulsky removed a brown pipe from his pocket that had a smell of marijuana. § 87(2)(b) was then placed inside of an RMP by Sgt. Echeverria. Det. Skulsky did not witness any officer drag § 87(2)(b) § 87(2)(b) along the ground at all and he was not complaining of any injuries at that time. ESU responded

to the scene as well and Det. Skulsky explained that there may be a gun anywhere between there and § 87(2)(b) and advised ESU to conduct a search for the possible weapon. The only officers who Det. Skulsky was able to identify on scene were Sgt. Echeverria, "Chacala" from ESU, Lt. Baldwin, and Det. Moore from the 48th Squad.

Det. Skulsky and Sgt. Rodriguez then walked back to the restaurant and Det. Stoll showed Det. Skulsky a tomahawk or hatchet that he found in the restaurant. Det. Skulsky was unable to identify any other officers who were in the restaurant, although noted that Lt. Baldwin stated that they could not search the restaurant because they did not have a warrant. Det. Skulsky noted that when he returned to the restaurant, a dark skinned man with glasses who had been in the restaurant during the initial incident, approached him and told him that Det. Skulsky had "scared the shit out of him." Det. Skulsky then walked next door to show § 87(2)(b) who explained that he definitely saw a silver revolver.

Det. Skulsky returned to the detective squad and § 87(2)(b) was on the ground of the cell. Det. Skulsky asked him what was wrong and § 87(2)(b) explained that he had diabetes and was allergic to sodium pentathol. Det. Skulsky told § 87(2)(b) that EMS would respond and when they did, § 87(2)(b) neither asked nor declined to go to the hospital. The EMT stated that they were legally obligated to take him, and § 87(2)(b) was transported to the hospital. In the ambulance, § 87(2)(b) explained to Det. Skulsky that he did not have a gun, and he did not know who the officers were and that they scared him. Det. Skulsky explained that § 87(2)(b) knew who he was and had he thought he was anything other than the police, he would not have run out of the restaurant and left his wife alone. In the ER, § 87(2)(b) continued talking and stated to Det. Skulsky that he could not do good business in the restaurant. He explained that he was opening a new place and that he would put the officers on the list. § 87(2)(b) came to the hospital and she was calmed down at that point. Det. Skulsky once again, explained the situation to § 87(2)(b) and § 87(2)(b). At no point following the incident did § 87(2)(b) indicate to the officers that they had physically mistreated him or used excessive force against him.

§ 87(2)(b) was diagnosed with a cracked rib but § 87(2)(b) declined further treatment because he wanted to be put through the system as quickly as possible. Det. Skulsky stated that the scrapes to § 87(2)(b)'s body and face were a result of rolling on the ground during the struggle. He was unaware of at what time § 87(2)(b) would have sustained a broken rib. Det. Skulsky looked at the pictures of § 87(2)(b)'s injuries and noted that most scratches were present immediately following the incident. Sgt. Rodriguez and Det. Skulsky each sustained small bumps and bruises as well but did not go line of duty.

Lt. Bryan Baldwin: CCRB Statement

On August 22, 2007 the CCRB interviewed Lt. Bryan Baldwin of Internal Affairs and formerly of the 48th Precinct Detective Squad (encl. 16). Lt. Baldwin is a § 87(2)(b)-old white male. He is 5'8", 175 pounds with brown hair and brown eyes. On September 28, 2006 he worked approximately 1000 hours until 1800 hours at the commanding officer of the detective squad. Lt. Baldwin had no memo book entries regarding this incident.

Lt. Baldwin stated that at 11:15 a.m. on September 28, 2006 in the vicinity of § 87(2)(b) he responded to the location because a call for assistance by officers from his command. Lt. Baldwin responded to the restaurant at § 87(2)(b) and was briefed on what had happened. Lt. Baldwin did not recall if a search of the restaurant was conducted, nor did he recall any interactions that he had with any officers on scene. Lt. Baldwin remembered that there was some discussion of a firearm but did not recall any particular details of the incident or what other officers responded to the location

Det. Anthony Moore: CCRB Statement

On September 26, 2007 the CCRB interviewed Det. Anthony Moore of the 48th Precinct Detective Squad (encl. 17). Det. Moore is a § 87(2)(b)-old white male. He is 5'11", 185 pounds with brown hair and blue eyes. On September 28, 2006, Det. Moore worked from 8:00 a.m. until 4:00 p.m. in a Detective Squad assignment. Det. Moore had no memo book or DAR entries regarding this incident.

Det. Moore stated that at approximately 11:15 a.m. on September 28, 2006, he was in the squad office and heard a call for assistance come over from an officer whom he identified as being from his command, though he was unable to identify the officer. Det. Moore, Sgt. Echeverria, Lt. Baldwin and Det.

Stoll responded to the location which was approximately § 87(2)(b). When they arrived on scene, § 87(2)(b) was already in handcuffs around the corner from the location on § 87(2)(b). § 87(2)(b) was being walked back towards the corner of § 87(2)(b). Det. Moore spoke with someone regarding what had happened however he could not recall who he spoke to. Det. Moore was unable to identify any additional officers on scene, although did note that there was uniformed personnel on scene as well. Det. Moore did enter the § 87(2)(b)'s restaurant; however he did not interact with anyone inside the restaurant. Det. Moore was informed that § 87(2)(b) may have had a gun that was hidden behind the counter at the location, and he conducted a visual inspection of the area. Nothing was moved around in the restaurant, and Det. Moore did not recall whether any additional officers were conducting searches at the time. Det. Moore recalled that there was a female in the restaurant who was yelling and being loud, however he did not recall any particular statements she was making. He did not recall any officer interacting with her at any time. Specifically, Det. Moore did not recall any officers using any profanity towards any civilians on scene, nor did he hear any officer threaten to arrest any civilians who were on scene. Upon concluding his visual search of the counter area, Det. Moore left the location. He stated that he was on scene for a total of approximately five minutes. When he returned to the precinct, Det. Moore generated the arrest paperwork for § 87(2)(b) but did not print him and did not have any further interactions with him.

Det. Moore saw § 87(2)(b) both on scene and back at the precinct. He did not recall having observed any physical injuries to § 87(2)(b) at any time, though did note that he was removed to the hospital by EMS following the incident. He did not recall § 87(2)(b) bleeding following the incident. Det. Moore was presented with photos of § 87(2)(b) following the incident, but stated that he did not recall what § 87(2)(b) looked like and did not recall what his physical condition may have been.

Det. Brian Stoll: CCRB Statement

On November 28, 2007 the CCRB interviewed Det. Brian Stoll of the 48th Precinct Detective Squad (encl. 18). Det. Stoll is a § 87(2)(b)-old white male. He is 6'0 tall, 200 pounds with a bald head and hazel eyes. On September 28, 2006, Det. Stoll worked from 0800 hours until 1600 hours in an investigator assignment.

Det. Stoll stated that at approximately 11:15 a.m. on September 28, 2006, he was at the squad and a 10-85 came over the radio from § 87(2)(b). He, Lt. Baldwin, Sgt. Echeverria and Det. Moore left the office and responded to the location via RMP. When they arrived, an individual identified as § 87(2)(b) was already in handcuffs and the incident had concluded. Det. Stoll stated that there were several uniformed officers present as well as several members of the Detective Squad. He was unable to identify any additional officers. Det. Stoll stated that Lt. Baldwin may have been the ranking officer on scene but there may have been a uniformed captain. Det. Stoll did not recall any supervisors instruct any officers to search the restaurant or attempt to locate any weapons on scene. Det. Stoll recalled there being civilians in the restaurant but did not interact with any of them, nor did he hear any other officers interact with any of the civilians. He did not hear any officer use profanity towards any of the civilians on scene. Det. Stoll remained on scene for approximately 15 or 20 minutes. He stated that he did not see § 87(2)(b) until he returned to the precinct and did learn what had happened in regards to his arrest until he returned. When Det. Stoll saw § 87(2)(b) at the precinct, he stated that he did not have any interaction with him and did not recall him complaining about any physical injuries. He stated that an ambulance was called for § 87(2)(b) but he did not observe any physical injuries to § 87(2)(b).

PO Miguel Alvarez: CCRB Statement

On November 28, 2007 the CCRB interviewed PO Miguel Alvarez of the 48th Precinct (encl. 19). On September 28, 2006, PO Alvarez worked from 0705 hours until 1540 hours in sector C/D with PO Sepulveda. They were dressed in uniform and were assigned to RMP § 87(2)(b). PO Alvarez had no memo book entries in regards to this incident.

PO Alvarez was unaware of where exactly he was on September 28, 2006 at approximately 11:15 a.m. He stated that he did not recall a 10-85 coming over on that morning from § 87(2)(b) and stated that although sector C appeared on the Sprint communication report, he and PO Sepulveda did not respond to the incident. He did not recall having responded to any incidents that took place and the time and place of occurrence.

Medical Records

The Medical Treatment of Prisoner form which was prepared on September 28, 2006 indicates that § 87(2)(b) sustained lacerations subsequent to fighting with police. The Pre-Arrest Screening Form prepared on the same date indicates that § 87(2)(b) was not sick or injured at the time. The visual assessment notes that he had abrasions to both knees and abrasion to the left side of his face and forehead. § 87(2)(b) was transported to § 87(2)(b) on § 87(2)(b). The Ambulance Call Report indicates that he was in the holding cell at the 48th Precinct and stated that he was diabetic and feeling weak. It is noted that he had an abrasion to his face and § 87(2)(b) stated that he “fell yesterday.” He had no further complaints at that time. His records from § 87(2)(b) indicate that he was brought in by police after resisting arrest. He felt weak, had a headache, and had pain to his right rib cage and left elbow. He was treated at § 87(2)(b) and released.

On § 87(2)(b) § 87(2)(b) was transported to § 87(2)(b) and § 87(2)(b). Two Ambulance Call Reports were prepared on that date. One states that § 87(2)(b) complained of shortness of breath as a result of fractured ribs, and stated that he had pain on his right side. The other ACR states that § 87(2)(b) had discomfort from fractured ribs that had occurred the day before. He had no other complaints and stated that he was transported to the hospital the previous day and diagnosed with broken ribs. It is noted that he presented with multiple bruises to his legs and face.

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b). He was transported via EMS while in police custody. He complained of pain to his right ribs and shortness of breath following an altercation with police on September 28, 2006. The records note that he appeared quite uncomfortable. He was taken into custody on September 28, 2006 with rib pain. He was taken to § 87(2)(b) where they found a fracture to his ribs. At 10:00 p.m., he began to complain of shortness of breath.

On § 87(2)(b) § 87(2)(b) was treated at § 87(2)(b). He stated that he was assaulted by the NYPD on September 28, 2006 and was subsequently treated at § 87(2)(b) for two fractured ribs. He had suffered from vomiting and headache since the incident (encl. 20).

Sprint Communication Report

At 11:07 a.m. on September 28, 2006, a female caller, identified as § 87(2)(b) § 87(2)(b) called 911 and stated that a fake detective came into her house and is beating up her husband. At 11:08 a.m. she stated that the landlord called some detectives for an unknown reason. She stated that they came in with guns and are beating up her husband. She stated that they are now taking off and stated that they are fake police with fake badges. At 11:07 a.m., officers put over a foot pursuit and several units responded including sector C and several supervisors from the 48th Precinct. At 11:12 a.m. an 84 was called over by the 48th Precinct Squad of a foot pursuit involving a white male with a crew cut wearing burgundy pants and possibly armed with a firearm. At 11:17 a.m., the squad sergeant requested ESU to the location to conduct an evidence search. All MOS were accounted for and there were none injured. At 12:13 p.m. a disposition came over of one under arrest. At 11:54 a.m. EMS was requested to the 48th Precinct in regards to an injured prisoner. EMS arrived on scene at 11:58 a.m. and § 87(2)(b) was transported to § 87(2)(b) (encl. 21).

Police Documents

48th Detective Squad Roll Call

The 48th Precinct Detective Squad Roll Call for September 28, 2006 indicates that Lt. Baldwin and Sgt. Echeverria were the two supervisors working and Det. Skulsky, Sgt. Rodriguez, Det. Stoll were also listed as working (encl. 22).

48th Precinct Roll Call

The 48th Precinct Roll Call for September 28, 2006 indicates that PO Alvarez and PO Sepulveda were assigned to Sector C (encl. 23).

48th Precinct Command Log

The 48th Precinct Command Log indicates that § 87(2)(b)'s arrest was logged at 11:35 a.m. for § 87(2)(b). No further information was provided and his physical condition is not noted (encl. 24).

Status of Court Case

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Criminal History of Civilian

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

CCRB History of Subject Officers

Sgt. Rodriguez has not had any CCRB allegations substantiated against him. Det. Skulsky was substantiated on allegations of a vehicle search and discourtesy in regards to CCRB case number 200200717. The NYPD imposed "Command Discipline A" in regards to these allegations (encl. 2).

CCRB History of Complainant

Neither § 87(2)(b) nor § 87(2)(b) has filed any previous or subsequent complaints at the CCRB (encl. 3).

Conclusions and Recommendations

Officer Identification

At this time of his complaint, § 87(2)(b) and § 87(2)(b) described the two officers who entered the restaurant and subsequently chased and arrested § 87(2)(b) as a white male and a Hispanic male, who were identified as PO Flavio Rodriguez and Det. Christopher Skulsky. These officer fit the descriptions provided by the complainants, and confirmed during their CCRB statements that they were the officers responsible for the force used against § 87(2)(b) § 87(2)(g). During her complaint, § 87(2)(b) stated that additional officers responded to the location, used more force against § 87(2)(b) threatened to arrest her, and searched the restaurant. § 87(2)(g)

When the CCRB interviewed, § 87(2)(b) a friend of the § 87(2)(b)'s and a witness to the incident, she stated that an officer told her to "shut the fuck up and sit down." She was unable to provide any descriptive information for this officer other than that he was a male. § 87(2)(g) Following § 87(2)(b)'s arrest, § 87(2)(b) stated that officers searched the restaurant. § 87(2)(g)

Undisputed Facts

It is undisputed that at the time of the incident, Det. Skulsky and Sgt. Rodriguez entered § 87(2)(b) to investigate a complaint that was filed against § 87(2)(b). It is undisputed that § 87(2)(b) ran out of the restaurant and was pursued by the officers, who used force in order to effect the arrest of § 87(2)(b).

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

This investigation determined that Det. Skulsky and Sgt. Rodriguez responded to § 87(2)(b) in response to a complaint against § 87(2)(b) regarding menacing his landlord. When the officers arrived, they stated that they identified themselves and had their shields displayed, § 87(2)(g)

§ 87(2)(b) alleged that when the officers caught up to him, Sgt. Rodriguez punched him several times in his face and Det. Skulsky hit him four times with an asp in his ribs. § 87(2)(g)

Following the incident, § 87(2)(b) was treated at several hospitals for bruises and abrasion to his body as well as two broken ribs. § 87(2)(g)

§ 87(2)(b) he did not allege that he was assaulted or beaten up until his treatment at § 87(2)(b), several days after the incident. Rather, the various records indicate that prior to this statement, § 87(2)(b) stated that he sustained his injuries from falling, fighting with police, resisting arrest and being involved in an altercation with police.

§ 87(2)(b) made additional allegations regarding force that was used against § 87(2)(b) by the responding officers. She stated that after being handcuffed, several officers continued to hit § 87(2)(b) and then proceeded to drag him around the ground. § 87(2)(g)

§ 87(2)(b) went on to state that as the officers were arresting § 87(2)(b) they told her that if she remained at the location she would be arrested. She was unable to provide any physical descriptions of the officers who made those statements to her. In addition, § 87(2)(b) who made allegations regarding statements that were made to her inside the restaurant following the incident, was also unable to provide any physical description of the officer whom she made the allegation against.

After § 87(2)(b) was arrested, several additional units responded to § 87(2)(b) § 87(2)(b) alleged that at that time, officers conducted a search of the restaurant to locate the gun that § 87(2)(b) was believed to have had. § 87(2)(b) corroborated this allegation, however she added that the officers conducted a more thorough search than § 87(2)(b) had alleged. § 87(2)(g)

§ 87(2)(g) The inspection resulted in the recovery of a cutting implement which was determined not to have been the weapon that § 87(2)(b) allegedly threatened his landlord with. Furthermore, Det. Skulsky stated that he instructed ESU to conduct a search of the area between the restaurant and the location of the arrest in the event that § 87(2)(b) threw the firearm, however, there was no indication that ESU ever conducted a search of the interior of the restaurant.

Allegation A: Sgt. Flavio Rodriguez used physical force against § 87(2)(b)
Allegation C: Det. Christopher Skulsky used physical force against § 87(2)(b)

§ 87(2)(g) It is undisputed that Sgt. Rodriguez punched § 87(2)(b) during the incident, and that Det. Skulsky hit § 87(2)(b) with his asp. § 87(2)(g) § 87(2)(b) alleged that he was punched in the face multiple times, § 87(2)(g)

At no time during his extensive medical treatment immediately following the incident, did § 87(2)(b) allege that the force was excessive, and he did not referenced having been assaulted until he was treated at § 87(2)(b) § 87(2)(g).

Allegation B: Det. Christopher Skulsky struck § 87(2)(b) with an asp.

§ 87(2)(b) stated that during the incident, he sustained two broken ribs as a result of being struck with a asp under his right arm. While the medical records do confirm that he sustained broken ribs, Det. Skulsky stated that when he struck § 87(2)(b) with the asp, it was limited to his legs and he did not strike him in his rib and torso area. § 87(2)(g)

As noted in the OATH case PD v. Freeman (OATH Index No. 1501/99), “Although, in some circumstances, a blow with a nightstick delivered to a vulnerable area of the body might be considered deadly physical force, the three blows with the nightstick to Mr. Cardoza’s thigh, resulting only in minor bruises, did not rise to the level of deadly force” (encl. 1) § 87(2)(g)

Allegation D: Officers used physical force against § 87(2)(b)

§ 87(2)(b) made additional allegations regarding force that was used against § 87(2)(b) by officers who responded to the incident. She stated that after § 87(2)(b) was handcuffed, ten additional officers were striking § 87(2)(b). She stated that this beating lasted for approximately 10-15 minutes, however she was unable to provide descriptions for any of the officers involved. During his statement, § 87(2)(b) failed to make any of these additional allegations and noted that although he was pushed onto the ground by officers, no officers struck him other than Sgt. Rodriguez and Det. Skulsky. § 87(2)(g).

Allegation E: Officers threatened to arrest § 87(2)(b)

Allegation F: Officers spoke obscenely to § 87(2)(b)

Both § 87(2)(b) and § 87(2)(b) made additional allegations regarding statements that were made to them by officers who responded to the location; however each of them was unable to provide any description of the officers who made the statements. § 87(2)(g)

Allegation G: Officers entered and searched § 87(2)(b)

Following § 87(2)(b)'s arrest, officers entered and allegedly searched the inside of the § 87(2)(b)'s restaurant at § 87(2)(b). § 87(2)(g)

§ 87(2)(b). It is undisputed that the officers did suspect § 87(2)(b) of possessing a gun and believed that he may have hid it somewhere inside the restaurant. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: